

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

FLYING DOG BREWERY, LLLP)	Case No. 1:11-CV-00307-RJJ
)	
Plaintiff,)	PLAINTIFF'S SUPPLEMENTAL
)	MATERIAL RE: MOTION FOR
v.)	PRELIMINARY INJUNCTION
)	
MICHIGAN LIQUOR CONTROL)	
COMMISSION, et al.,)	
)	
Defendants.)	
)	
)	

Pursuant to the Court's suggestion that the parties may provide additional useful information regarding the motion for preliminary injunction, and upon further review of the file, Flying Dog advises the Court of the following pertinent information:

Defendants have, in fact, issued Flying Dog registration number 74497 for the sale of RAGING BITCH beer. *See* attached Exh. A.

Defendants' brief, at p. 1, provides: "To be able to sell each variety of its beers, however, Flying Dog also has to obtain a registration number for the product and receive Commission approval to sell it." The cited authority is MICH. ADMIN. CODE r. 436.1611, subsection 1 of which is then re-printed. The only element of this rule not satisfied by Flying Dog for the sale of RAGING BITCH is its lack of Commission approval. The only authority for disapproval provided for in the rule is that listed in subdivision (d). And as the Defendants' orders of November 18, 2009 and July 7, 2010 (Plaintiffs' Exhibits B and D, Defendants' Exhibits 2 and 5) clearly provide, the only reason offered by the Commission for its disapproval is its invocation of MICH.

ADMIN. CODE r. 436.1611(1)(d).¹ Defendants have never suggested any other reason for disapproval of the sale of RAGING BITCH.

Accordingly, as a registration number for RAGING BITCH has already been issued, an injunction against disapproval based on Section 436.1611(1)(d) should result in Commission approval for the sale of RAGING BITCH. Plaintiff would be satisfied with an injunction requiring Defendants to approve the sale of RAGING BITCH if there is no impediment to that approval other than Section 436.1611(1)(d).

Dated: June 9, 2011

Respectfully Submitted,

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¹Plaintiffs submitted both the order of November 18, 2009 and the cover letter of November 23, 2009 as Exh. B, while only the latter document is submitted as Defendants' Exh. 2. Plaintiffs submitted both the order of July 7, 2010 and the cover letter of July 8, 2010, while only the former is submitted as Defendants' Exh. 5.